



[Notice 2021-19]

## Privacy Act of 1974; New System of Records

**AGENCY:** Federal Election Commission.

**ACTION:** Notice of New System of Records.

**SUMMARY:** In accordance with the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Federal Election Commission ("the FEC" or "the Commission" or "the agency") is publishing for comment a new system of records that is maintained by the Commission. This new system has been entitled FEC 17, Reasonable Accommodation. This system has been proposed as a result of a reevaluation of the manner in which the Commission maintains records.

**DATES:** Comment on the establishment of the new system of records must be received no later than [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. The new system of records will be effective [INSERT DATE 40 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*] unless the Commission receives comments that would result in a contrary determination.

**ADDRESSES:** Comments should be addressed in writing to Gregory Baker, Co-Chief Privacy Officer, Federal Election Commission, 1050 First Street, NE, Washington, DC 20463, by close of business on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**FOR FURTHER INFORMATION CONTACT:** Gregory Baker, Co-Chief Privacy Officer, Federal Election Commission, (202) 694-1612.

**SUPPLEMENTARY INFORMATION:** The Privacy Act regulates the collection, maintenance, use and dissemination of information about individuals by Federal agencies. Its basic rule generally prohibits the disclosure of any individual's "record," if contained in a "system of records" to a third party without the individual's consent. See 5 U.S.C. 552a(b). A

"system of records" is any group of records in which records can be retrieved by the individual's name, or by a unique identifier assigned to the individual. See 5 U.S.C. 552a(a)(5).

There are a number of exceptions to the basic rule of nondisclosure without consent. Among them is an exception that permits nonconsensual disclosure for a "routine use" - that is, a use compatible with the purposes for which the record was collected. 5 U.S.C. 552a(b)(3). Individuals are also, again with exceptions, guaranteed access to their records, and the right to request amendment of their records if they believe the records are inaccurate. See generally 5 U.S.C. 552a(d). To facilitate these provisions, each agency must periodically review its systems of records and publish a notice in the Federal Register containing certain specified information about them. The FEC has undertaken and completed such a review and determined that the FEC needed to establish a Reasonable Accommodation system of records.

The FEC proposes to establish the system of records entitled FEC 17, Reasonable Accommodations. FEC 17 would cover documents collected and maintained by the Equal Employment Opportunity ("EEO") Office at the Federal Election Commission. These records would be collected under the authority of The Rehabilitation Act of 1973, 29 U.S.C. 701,791, 794; Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e; 29 CFR 1605 (Guidelines on Discrimination Because of Religion); 29 CFR 1614 (Federal Sector Equal Employment Opportunity); 29 CFR 1614.203 (Regulations to Implement the Equal Employment Provisions of the Americans With Disabilities Act); 5 U.S.C. 302, 1103; Executive Order 13164, Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation (July 26, 2000); Americans with Disabilities Act Amendments Act (ADAAA) of 2008; and Executive Order 13548, Increasing Federal Employment of Individuals with Disabilities (July 26, 2010).

As required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, and OMB Circular A-130, the FEC has submitted a report describing the new and altered systems of records covered by this notice to the Office of Management and Budget and to Congress.

Dated: December 21, 2021.

On behalf of the Commission,

**Gregory Baker,**

*Co-Chief Privacy Officer,*

*Federal Election Commission.*

## **FEC 17: Reasonable Accommodations**

### **SYSTEM NAME:**

Reasonable Accommodations for the Federal Election Commission (FEC); FEC-17

### **SECURITY CLASSIFICATION:**

Sensitive but unclassified.

### **SYSTEM LOCATION:**

Records are maintained by the Equal Employment Opportunity (“EEO”) Office at the Federal Election Commission, 1050 1<sup>st</sup> St. NE, Washington, DC 20463.

### **SYSTEM MANAGER(S):**

EEO Director, EEO Office at the Federal Election Commission, 1050 1<sup>st</sup> St. NE, Washington, DC 20463.

### **AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

The Rehabilitation Act of 1973, 29 U.S.C. 701,791, 794; Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e; 29 CFR 1605 (Guidelines on Discrimination Because of Religion); 29 CFR 1614 (Federal Sector Equal Employment Opportunity); 29 CFR 1614.203 (Regulations to Implement the Equal Employment Provisions of the Americans With Disabilities Act); 5 U.S.C. 302, 1103; Executive Order 13164, Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation (July 26, 2000); Americans with Disabilities Act Amendments Act (ADAAA) of 2008; and Executive Order 13548, Increasing Federal Employment of Individuals with Disabilities (July 26, 2010).

**PURPOSE(S):**

The purpose of this system of records is to allow FEC to collect and maintain records on applicants for employment, employees and other individuals who participate in FEC programs or activities who request or receive reasonable accommodations or other appropriate modifications from FEC for medical or religious reasons; to process, evaluate, and make decisions on individual requests; and to track and report the processing of such requests agency-wide to comply with applicable requirements in law and policy.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Current and former FEC employees (including unpaid interns and other similarly situated individuals), and prospective employees of the FEC, who make a request for and/or receive a reasonable accommodation or other appropriate modifications from the FEC for a disability or sincerely held religious belief, practice, or observance.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records in this system include identifying information regarding persons needing a reasonable accommodation (e.g., name, title/series/grade, telephone number, date of request, e-mail address, office, description of accommodation requested, and reason for request); requester's name and contact information (if different than the employee or prospective employee who needs an accommodation); and the status of the response within the FEC. Records in this system may include: the original written request; the FEC's response; the name, title and telephone number of office or staff members deciding or referring the matter; related letters or memoranda; copies of any enclosures/attachments, including medical records or information related to religious belief and exemption; the date an accommodation request was approved or denied; the reason a request was denied; the date an accommodation was provided; whether the recommended time frames were met as outlined in the Reasonable Accommodation Procedures; the reason the reasonable accommodation was needed; the type(s) of reasonable accommodation requested; the type(s) of accommodation provided; the source of technical

assistance; whether medical or other appropriate supporting information was required to process the request, and if so, an explanation of why it was required; and other request-related information.

**RECORD SOURCE CATEGORIES:**

Information is obtained from the individuals who request and/or receive a reasonable accommodation or other appropriate modification from OPM, directly or indirectly from an individual's medical provider or another medical professional who evaluates the request, directly or indirectly from an individual's religious or spiritual advisors or institutions, and from management officials.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:**

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b), these records and information contained in the records may be disclosed outside of the FEC as a routine use pursuant to subsection (b)(3) of the Privacy Act as follows:

- A. To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of an individual who is the subject of the record.
- B. To the General Services Administration and National Archives and Records Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.
- C. Where a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, to any civil or criminal law enforcement authority or other appropriate agency, whether federal, state, local, foreign, or tribal, charged with the responsibility of investigating or prosecuting such a violation or enforcing or implementing a statute, rule, regulation, or order.

- D. In an appropriate proceeding before a court, grand jury, or administrative or regulatory body when records are determined by the FEC to be arguably relevant to the proceeding.
- E. To an actual or potential party to litigation or the party's authorized representative for the purpose of negotiation or discussion on such matters as settlement, plea bargaining, or in informal discovery proceedings.
- F. To a federal agency or entity that requires information relevant to a decision concerning the hiring, appointment, or retention of an employee, the issuance of a security clearance, the conduct of a security or suitability investigation, or pursuit of other appropriate personnel matter.
- G. To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Federal Government, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to FEC employees.
- H. To a former employee of the FEC for purposes of: responding to an official inquiry by a federal, state, or local government entity or professional licensing authority, in accordance with applicable FEC regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the FEC requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.
- I. To such recipients and under such circumstances and procedures as are mandated by federal statute or treaty.

- J. A record from this system may be disclosed to the Office of Management and Budget (OMB), Department of Labor (DOL), Office of Personnel Management (OPM), Equal Employment Opportunity Commission (EEOC), Office of Special Counsel (OSC) or the Department of Justice (DOJ), or other agencies to obtain advice regarding statutory, regulatory, policy, and other requirements related to reasonable accommodation.
- K. A record from this system may be disclosed to physicians or other medical professionals to provide them with or obtain from them the necessary medical documentation and/or certification for reasonable accommodation.
- L. A record from this system of records may be disclosed as a routine use to provide information to the OPM and/or MSPB for review, audit, or reporting purposes.
- M. To appropriate agencies, entities, and persons when (1) the FEC suspects or has confirmed that there has been a breach of the system of records; (2) the FEC has determined that as a result of the suspected or confirmed breach, there is a risk of harm to individuals, FEC (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the FEC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.
- N. To another Federal agency or Federal entity, when the FEC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.



- O. To first aid and safety personnel if the individual's medical condition requires emergency treatment.
- P. To a Federal agency or entity authorized to procure assistive technologies and services in response to a request for reasonable accommodation
- Q. To an authorized appeal grievance examiner, formal complaints examiner, administrative judge, equal employment opportunity investigator, arbitrator, or other duly authorized official engages in investigation or settlement of a grievance, complaint, or appeal filed by an individual who requested a reasonable accommodation or other appropriate modification

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

The records in this system of records are stored electronically on the FEC's local area network or with FedRAMP-authorized cloud service providers segregated from non-government traffic and data, with access limited to a small number of personnel. In addition, paper records are stored in locked file cabinets in access-restricted offices at 1050 1<sup>st</sup> St. NE, Washington, DC 20463.

**RETRIEVABILITY:**

The records are retrieved by the name of the individual making a request for reasonable accommodation or for whom the accommodation was requested (if different than the individual making the request); in the case of electronic databases, information may possibly be retrieved by other identifying search terms.

**SAFEGUARDS:**

Records in this system of records are under the custody of designated employees of the Commission. Paper records are kept in locked file cabinets. All electronic records are protected from unauthorized access through appropriate administrative, physical, and technical safeguards. These safeguards include the application of appropriate access control mechanisms to ensure the confidentiality, integrity, and availability of those records and that they are only accessed by those with a need to know and dictated by their official duties. In general, records and technical equipment are maintained in buildings with restricted access.

#### **RETENTION AND DISPOSAL:**

Records are retained under the NARA's General Records Schedule 2.3: Employee Relations Records, Item 020, Reasonable accommodation records, Reasonable accommodation program files, and Item 021, Reasonable accommodation employee case files. Destroy 3 years after being superseded, but longer retention is authorized if required for business use (Item 020). Destroy 3 years after employee separation from the agency or all appeals are concluded, whichever is later, but longer retention is authorized if required for business use (Item 021).

#### **NOTIFICATION PROCEDURE:**

A request for notification of the existence of records may be made in person or in writing to the Federal Election Commission, Attn: Co-Chief Privacy Officers, 1050 1<sup>st</sup> St. NE, Washington, DC 20463, or by emailing [privacy@fec.gov](mailto:privacy@fec.gov). For additional information, refer to the Commission's access regulations at 11 CFR parts 1.1-1.5, 41 FR 43064 (1976).

#### **RECORD ACCESS PROCEDURES:**

An individual interested in gaining access to a record pertaining to them must make a request in writing addressed to the Federal Election Commission, Attn: Co-Chief Privacy Officers, 1050 1<sup>st</sup> St. NE, Washington, DC 20463, or by emailing [privacy@fec.gov](mailto:privacy@fec.gov). The envelope and letter should be clearly marked "Privacy Act Access Request." The request should include a general description of the records sought must be signed and must include the requestor's full name, current address, reason the requester believes the records contains their

PII, and date. For additional information, refer to the Commission's access regulations at 11 CFR parts 1.1-1.5, 41 FR 43064 (1976).

**CONTESTING RECORD PROCEDURES:**

Individuals interested in contesting the information contained in their records or the denial of access to such information should notify the Co-Chief Privacy Officers at the Federal Election Commission, 1050 1<sup>st</sup> St. NE, Washington, DC 20463. For additional information, refer to the Commission's regulations for contesting initial denials for access to or amendment of records, 11 CFR parts 1.7-1.9, 41 FR 43064 (1976).

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

**HISTORY:**

None.

BILLING CODE: 6715-01-P

[FR Doc. 2021-28222 Filed: 12/27/2021 8:45 am; Publication Date: 12/28/2021]